

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement  
(916) 322-5662 322-5660 322-5901 322-6441

July 17, 1984

Stephen T. Terry  
McDonald, Halsted & Laybourne  
1200 Wilshire Blvd.  
Los Angeles, CA 90017

Re: Advice Letter No. A-84-164

Dear Mr. Terry:

This letter is to confirm my advice to you. On June 13, 1984, you asked whether the term "employee," as used in 2 Cal. Adm. Code Section 18423, includes independent contractors. This regulation provides that, under certain circumstances, the payment of salary, reimbursements for personal expenses, or other compensation by an employer to an employee who spends more than 10% of his compensated time in any one month rendering services for political purposes is a contribution or an expenditure. I advised you that, in order to preserve the purposes of the Political Reform Act's reporting provisions and the regulation, the term "employee" must be interpreted to include "independent contractors."

If you have any questions, please feel free to contact me at (916) 322-5901.

Very truly yours,

*Janis Shank McLean*  
Janis Shank McLean  
Counsel  
Legal Division

JSM:plh

MACDONALD, HALSTED & LAYBOURNE

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1200 WILSHIRE BOULEVARD

LOS ANGELES, CALIFORNIA 90017

EVERETT S. LAYBOURNE  
WILLIAM F. RINEHART  
GILBERT E. HANAU\*  
ORVILLE A. ARMSTRONG\*  
NORTON B. JACKSON\*  
DENNIS KEELEY\*  
HOWARD G. RATH, JR.\*  
JAMES J. SLABY, JR.\*  
KEVIN P. FIORE\*  
THOMAS CURTISS, JR.\*  
TRAVIS O. WOOD\*  
JOEL MARK  
JOHN R. SHINER  
CYNTHIA MADURO RYAN\*  
CHARLES H. DICK, JR.  
BRIAN G. O'GUSH\*  
THOMAS S. KIDDE\*  
MICHAEL K. MAHER\*  
GORDON E. BOSSERMAN  
LAWRENCE O. STECKWIST  
FREDERICK V. GEISLER

DAVID C. DEWITT  
CLIFTON S. SMITH, JR.  
KATHLEEN J. SHIMA  
JEFFREY C. BERSIN  
GEOFFREY C. BROWN  
PAUL H. HAYASE  
ABBY B. SILVERMAN  
GEORGE D. HARDY  
MARK D. SACHAR  
DARLENE E. RASE  
GARY L. URWIN  
WENDY A. WOLST  
JESS J. GONZALEZ  
STEPHEN T. TERRY  
CURT C. BARNICK  
NARA J. BRESNAICK  
MARY L. RUSSELL  
TERRENCE K. KING  
KYNTHIA R. URMER

\* PROFESSIONAL CORPORATION

A. STEVENS HALSTED, JR.  
ROBERT H. EDWARDS  
N. STEPHEN CRANSTON  
COUNSEL

Barbara A. Millman, Esq.  
General Counsel  
Fair Political Practices Commission  
1100 "K" Street  
Sacramento, California 95814

Dear Miss Millman:

This letter is a follow-up to my June 13, 1984 telephone conversation with your office during which I received an informal opinion concerning the definition of "employee" as that term is used in California Administrative Code §18423.

Based upon this conversation it is my understanding that both the Legal Department and the Technical Division of the Fair Political Practices Commission would regard consultants and independent contractors as "employees" for the purpose of reporting payments for personal services as contributions and expenditures under the Political Reform Act of 1974.

Since we represent business enterprises which could incur reporting obligations under the Act, we would like to obtain the Commission's official opinion concerning the foregoing question.

I do appreciate the courtesy extended to me in this matter.

Very truly yours,

Stephen T. Terry

STT:rh

ALEXANDER MACDONALD  
1989-1970

SAN DIEGO

WELLS FARGO BANK BUILDING  
101 WEST BROADWAY  
SAN DIEGO, CALIFORNIA 92101  
(619) 236-1441

CABLES: MACHALAY LSA  
TELECOPIER: 213-481-8552  
TELEX: 752718

TELEPHONE: (213) 481-12